

REMARKS

Upon entry of the amendments in this paper, claims 1-10 will be pending in the above-identified application. Claim 1 is amended herein. Support for the amendment is at least found at page 6, line 27 to page 7, line 3. Claim 10 has been added herein. Support for new claim 10 is at least found at page 3, lines 24-28. No new matter is entered.

It is respectfully submitted that this paper is fully responsive to the Office action mailed on April 1, 2009.

Applicants' Response to the Objection to the Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter.

Specifically, the objection asserts that: (1) there is no antecedent basis for the phrase "outside the porous material" recited in claim 1, and (2) there is no antecedent basis for a resin that consist of a cross-linked polyacrylic acid salt. This objection is related to the rejection of the claims under §112 discussed below. Applicants respectfully traverse the objection and rejection together as detailed below.

Applicants' Response to the Claim Rejections under 35 U.S.C. §112

Claims 1-9 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

The rejection maintains that the claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Specifically, as with the objection described above, the rejection asserts that there is no support in the disclosure for (1) a metal chelating agent outside of the porous material and (2) a resin that consists of a cross-linked polymer of acrylic acid.

In regard to the metal-chelating agent, as noted above, applicants have amended claim 1 so as to clarify that the anti-bacterial agent comprises a porous material incorporating an anti-bacterial metal. As noted in the Advisory Action of July 13, 2009 a porous antibacterial agent refers to the porous material incorporating an antibacterial metal. The metal chelating agent is not a part of the antibacterial agent but of the water absorbing resin compound. As detailed in the response filed June 24, 2009, the specification provides for the metal chelating agent forming metal complexes with eluted antibacterial metal. Page 3, lines 24-29 of the specification. Further, as set forth at page 7, line 14 to page 8, line 3, the water-absorbing resin compound may be obtained by mixing a water-absorbing resin, an antibacterial agent and a metal chelating agent. Wherefore, applicants respectfully submit that it is clear from the specification that the metal chelating agent is outside of the porous material which is a part of the anti-bacterial agent.

The rejection also maintains that there is no support for the limiting of the water absorbing resin to only a cross-linked polymer of an acrylic acid salt.

As detailed in the response of June 24, 2009, page 4, lines 14-17 specifically states that a cross-linked polymer of an acrylic acid salt is preferable. A specific commercial acrylic acid salt is stated at page 4, lines 22-25. This acrylic acid salt is described as being combined with ethylenediaminetetraacetic acid disodium salt to form the water-adsorbing resin of Example 1, per page 9, line 23 to page 10, line 2, of the water-absorbing resin compound. Hence, applicants respectfully submit that there is support within the specification for a water-absorbing resin which consists of a cross-linked polymer of an acrylic acid salt.

Wherefore, applicants respectfully submit that there is sufficient support within the specification for the features of claim 1 as now presented, and respectfully request favourable reconsideration.

Applicants' Response to Claim Rejections under 35 U.S.C. §103

Claim 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gancet et al ('772) in view of Hosokawa (EP 257,951 A2).

In response thereto, applicants respectfully submit that the combination of Gancet and Hosokawa does not provide for all the features of the claimed invention, nor is there any reason whereby a skilled artisan would modify the combination so as to derive the present invention.

Specifically, the combination at least fails to provide for the features in claim 1 as now presented, that the metal chelating agent comprises powder particles which are outside of the

porous material, and 80% by weight or more of the metal chelating agent powder particles have a particle diameter of 100µm or less. As set forth at page 7, lines 2-3 of the specification the powder, sized according, "can homogeneously disperse in a water-absorbing resin."

There is no disclosure within the combination of Gancet and Hosokawa regarding the metal chelating agent being a powder with a particle size as claimed. As such, there is no reason whereby a skilled artisan could derive this feature of the present invention.

Further, applicants respectfully submit that the reason for the combination provided in the rejection, namely that Hosokawa discloses adding metal chelating agent to improve water absorbing performance and aging stability, is insufficient in light of applicants' obtained unexpected results.

Neither of the references recognizes the result obtained by the combination of improved suppression of ammonia, nor could these results be recognized based on their combined disclosures. As detailed at page 13, line 6 to page 16, line 8 of the specification applicants have obtained the unpredictable results from the combination of anti-bacterial agent and metal chelating agent of maintain antibacterial properties of the anti-bacterial metal and suppressing emission of unpleasant odors (ammonia) even when organic materials exist in the system.

The testing in the specification (comparative examples 2 and 3) indicates that neither of the components (anti-bacterial metal/metal chelating agent) alone can obtain these results. Further, a skilled artisan could not derive the above results from the combined disclosures of Gancet and Hosokawa, because Gancet discloses only an anti-bacterial agent without a metal chelating agent (commensurate to comparative example 2 of the specification) and Hosokawa

does not disclose an anti-bacterial agent (commensurate to comparative example 3 of the specification).

As such, although Hosokawa refers to metal chelating agent as affecting water absorbing performance and age stability, this is not a sufficient reason for the combination in light of applicants' obtained unpredictable results.

As detailed above, the combination of Gancet and Hosokawa do not provide for all the features of claim 1 as now presented. Further, the combination of references cannot render the present invention obvious in light of applicants' unexpected results. Wherefore, applicants respectfully submit that claim 1 and its respective dependent claims are not obvious in light of the combination.

In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

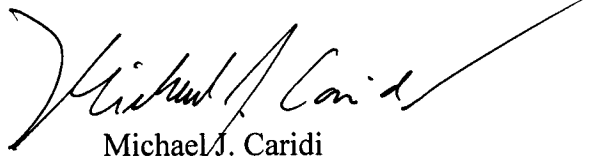
Application No.: 10/552,152
Art Unit: 3761

Amendment under 37 C.F.R. §1.114
Attorney Docket No.: 053170

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

A handwritten signature in black ink, appearing to read "Michael J. Caridi", with a long, sweeping horizontal stroke extending to the right.

Michael J. Caridi
Attorney for Applicants
Registration No. 56,171
Telephone: (202) 822-1100
Facsimile: (202) 822-1111

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